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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 10/066,174 | 01/29/2002 | Douglas C. Fisher | 01-111 | 2717 |
| 23843 | 7590 | 06/14/2005 | | |
| FOOTHILL LAW GROUP, LLP 3333 BOWERS AVE., SUITE 130 SANTA CLARA, CA 95054 | | | EXAMINER BADII, BEHRANG | |
| | | | ART UNIT 3621 | PAPER NUMBER |

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/066,174 | | FISHER ET AL. | |
| | Examiner | | Art Unit | |
| | Behrang Badii | | 3621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-60 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 59-60, drawn to a dynamic payment system in a node joining a first network whereupon online transactions are carried out, classified in class 725, subclass 5.

II. Claims 53-58, drawn to a method for transferring funds, classified in class 705, subclass 40.

III. Claims 1-9, drawn to a method of making a payment including authenticating the payer and authorizing the proposed payment in a single integrated process conducted without the involvement of the merchant, classified in class 705, subclass 53.

IV. Claims 42-52, drawn to a dynamic payment system comprising an instant message system and functionality for establishing a persistent channel with a plurality of user's for dynamic approval of online payment transactions taking place on the first network using the users' network enabled devices, classified in class 705, subclass 17.

V. Claims 29-41, drawn to a method for making a payment in an online transaction which includes associating an identifier assigned to the payer with at least one valid account number and other information pertaining to the payer in a database accessible to the trusted third party service, classified in class 705 subclass 79.

VI. Claims 10-28, drawn to a method for making payments including verifying the proposed payment, a telephone network, and allowing the payer to split the proposed payment 705 subclass 77.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a dynamic payment system in a node joining a first network whereupon online transactions are carried out. Invention II has separate utility such as a method for transferring funds. Invention III has separate utility such as a method of making a payment including authenticating the payer and authorizing the proposed payment in a single integrated process conducted without the involvement of the merchant. Invention IV has separate utility such as a dynamic payment system comprising an instant message system and functionality for establishing a persistent channel with a plurality of user's for dynamic approval of online payment transactions taking place on the first network using the users' network enabled devices. Invention V has separate utility such as making a payment in an online transaction which includes associating an identifier assigned to the payer with at least one valid account number and other information pertaining to the payer in a database accessible to the trusted third party service. Invention V has separate utility such as making payments including verifying the proposed payment, a telephone network, and allowing the payer to split the proposed payment. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrang Badii whose telephone number is 571-272-6879. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to (703)872-9306


Hand delivered responses should be brought to

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application
or proceeding should be directed to the Technology Center 3600 Customer Service
Office whose telephone number is **(703) 306-5771**.

Behrang Badii
Patent Examiner
Art Unit 3621

BB


SALVATORE CANGIALOSI
PRIMARY EXAMINER
ART UNIT 222